Building Blocks for Effective Housing Elements

Housing Needs

Identification and Analysis of Developments At-Risk of Conversion

Pursuant to Government Code Section 65583, subdivision (a), paragraph (8), this sub-section should include an analysis of existing assisted housing developments (as defined by the statute) that are eligible to change from low-income housing uses during the next ten years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

Thousands of publicly assisted housing units in California are eligible to change from low-income to market-rate housing during the next decade due to the termination of various government subsidy programs and/or restrictions on rental rates. These units, known as at-risk units, are a valuable source of affordable housing for families statewide and as a result, the housing element must include a detailed analysis and proactive policies and programs to preserve at-risk units.

For the purpose of housing element law, assisted housing developments or at-risk units are defined as multifamily rental housing complexes that receive government assistance under any of the following federal, State, and/or local programs (or any combination of rental assistance, mortgage insurance, interest reductions, and/or direct loan programs) and which are eligible to convert to market-rate due to termination (opt-out) of a rent subsidy contract (e.g., Housing Choice Vouchers [Section 8] mortgage prepayment (e.g., FHA), or other expiring use restrictions (e.g., State or local programs) within the current and subsequent 5-year planning period of the housing element. The following is a list of such programs:

Assisted Housing Developments (Government Code Section 65863.10)

“Assisted housing development" means a multifamily rental housing development that receives governmental assistance under any of the following programs:

(A) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f).

(B) The following federal programs:

(i) The Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715l(d)(3) and (5)).
(ii) Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1).
(iii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q).

(C) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s).

(D) Programs under Sections 514, 515, 516, 533, and 538 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485).

(E) Section 42 of the Internal Revenue Code.

(F) Section 142(d) of the Internal Revenue Code (tax-exempt private activity mortgage revenue bonds).

(G) Section 147 of the Internal Revenue Code (Section 501(c)(3) bonds).

(H) Title I of the Housing and Community Development Act of 1974, as amended (Community Development Block Grant program).

(I) Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (HOME Investment Partnership Program).

(J) Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987, as amended, including the Department of Housing and Urban Development's Supportive Housing Program, Shelter Plus Care program, and surplus federal property disposition program.

(K) Grants and loans made by the Department of Housing and Community Development, including the Rental Housing Construction Program, CHRP-R, and other rental housing finance programs.

(L) Chapter 1138 of the Statutes of 1987.

(M) The following assistance provided by counties or cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement with a county or city:

(i) Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).
(ii) Local housing trust funds, as referred to in paragraph (3) of subdivision (a) of Section 50843 of the Health and Safety Code.
(iii) The sale or lease of public property at or below market rates.
(iv) The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Chapter 4.3 (commencing with Section 65915).

I. REQUISITE ANALYSIS

If there are no units at-risk of conversion in the locality during the ten-year period, the element must include a description of how the locality determined and verified no units are at-risk during. The locality should verify that there are no federal, State, or locally funded units at-risk of conversion.

Inventory of At-Risk Units

The following describes the components of a through analysis:

If there are units at-risk, the element must include a detailed inventory and analysis. The inventory must list:

- each development by project name and address;
- type of governmental assistance received;
- earliest possible date of change from low-income use; and
- the total number of elderly and non-elderly units that could be lost from the locality's low-income housing stock.

Where a property has more than one subsidy type, analyze each type separately (see *IV. Links* for research resources assistance).

Assess the Conversion Risk

Risk of conversion and displacement of low-income tenants varies significantly from project to project depending on market, ownership, and project-based factors (size of units, location, condition of property, etc.).

Assess overall potential conversion risk based on the total number and type of units at-risk, total number of potentially displaced households, conversion intent of the ownership, and the economic condition of the local housing market, especially in areas with high housing costs and/or low vacancy rates.

Determine the condition of existing assisted housing developments to facilitate the replacement versus preservation cost analysis. Depending on the age and condition of the project, rehabilitation costs often have to be added to the acquisition costs in order to preserve the project.

Estimate and Analyze the Costs of Replacement Versus Preservation for Units At-Risk in the Current Five-Year Planning Period.

This purpose of this is to determine whether replacement (new construction), or preservation (acquisition and rehabilitation, and/or direct rental subsidy commitments) will be the most economical approach to preserving at-risk units. Current local market rents are the key to determining whether use restrictions and affordability controls can be feasibly extended under other federal, State (tax credit, revenue bonds, HCD's multifamily program, etc.) or local preservation programs.

The element should estimate the costs of producing new rental housing (comparable in size and rent levels to existing at-risk units) to replace the units that could change from low-income use. Use current land costs and either current construction costs (square footage rates for multifamily development) or the actual cost of recently completed units.

Estimate the cost of preserving the identified assisted housing developments including acquisition and rehabilitation costs long-term affordability controls and project-based rent subsidies.

A project-by-project cost estimate is not required (Government Code Section 65583(a)(8)(B)). The element can make an assessment of the appropriate strategy (replace vs. preserve) based on sample cost estimates as described above.

Identify Entities Qualified to Preserve At-Risk Units

Identify local public agencies, public or private nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects (Government Code Section 65583(a)(8)(C)). New purchasers must agree to long-term affordability controls.

Contact potential qualified entities to assess their interest in acquiring and managing at-risk properties. Contact HCD for a list of eligible entities interested in participating in the State's Opportunity to Purchase and Right of First Refusal Program (Government Code Section 65863.11) or to refer potential local qualified entities who wish to be placed on the list (A listing of the qualified entities and certification form is available on the department's website).

Identify Financing and Subsidy Resources

Identify and consider the use of all federal, State, and local financing and subsidy programs as preservation resources. At a minimum, include federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency, and the administrative fees received by a housing authority operating within the community as well as other available local financing/subsidy programs. Also include HOME funds as a potential source of revenue.

Identify the amount of funds under each program, which have not been legally obligated for other purposes and could be available for use in preserving assisted housing development (Government Code Section 65583(a)(8)(D)).

Indicate which available federal, State, and local financing and subsidy programs, will be targeted for specific preservation program actions (e.g., replacement, preservation through acquisition, extended affordability controls, regulatory actions, direct rental subsidies, rehabilitation, tenant and sponsor technical assistance, etc.).

Sample Table

The following are sample tables to assist in organizing critical information pertaining to housing element requirements. The information provided in the tables should be tailored to the jurisdiction and followed by appropriate analysis. These sample tables are not intended to be a substitute for addressing the analytical requirements described in the statute.

Summary of At-Risk Units

Project Name	Address	No. & Type of Units	Type of Subsidy	Non-Elderly units	Elderly units	Current Owner	Earliest Date of Expiration	Options for Renewal	At-Risk
	.								

Rehabilitation Costs

Fee/Cost Type	Cost Per Unit
Acquisition	
Rehabilitation	
Financing/Other	
Total Estimated Cost Per Unit	

New Construction/Replacement Costs

Cost/Fee Type	Cost Per Unit
Land Acquisition	
Construction	
Financing/ Other	
Total Estimated Per Unit Cost	

KEY IDEAS

II. MODEL ANALYSES

Sample Analysis

III. LINKS

Contact HCD's Division of Housing Policy Development to confirm federally-assisted units with expiring/terminating Housing Choice Voucher (Section 8) contracts or mortgage insurance prepayments at (916) 445-4728 or access HCD's website at *www.hcd.ca.gov/hpd/hrc/tech/presrv/*. To determine the status of HCD's funded programs (Deferred Payment Rehabilitation Loan, California Natural Disaster Assistance, California Housing Rehabilitation Program Rental Component, Farmworker Housing Grant, and Special User Housing Rehabilitation Loan) projects with expiring affordability controls, contact HCD's Division of Financial Assistance at (916) 322-1560.

HCD: List of Qualified Entities

HCD: Preservation Of Affordable Multifamily Housing Stock

HCD: Financial Assistance Program Directory

California Housing Partnership Corporation

California Housing Partnership Corporation: At-Risk Data on Tax Credit Units

California Housing Finance Agency (CalHFA): contact CalHFA to find out about bond-financed projects with terminating use restrictions.

California USDA Rural Development MFH

Tax Credit Allocation Committee (TCAC)

California Debt Limit Allocation Committee (CDLAC)